IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 34 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

RASIKLAL MOHANLAL

Appearance:

MR MANISH R BHATT for Petitioner

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 16/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

At the instance of Commissioner of Income-tax, Gujarat-II, Ahmedabad, the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' has referred following question of law for the opinion of this Court with regard to Assessment Year 1982-83 :

"Whether, an amount of Rs.2,963/- being the income of Rasiklal Mohanlal Family Trust was taxable in the hands of the assessee ?"

2. The assessee was the founder of a trust by the name of "Rasiklal Mohanlal Family Trust". The Income-tax Officer in the course of the assessment proceedings brought to tax in the hands of the assessee a sum of Rs. 2,963/- being the income of the aforesaid trust. According to the Income-tax Officer, the trust was not genuine and the assessee was the head and brain of the entire business run by the trust. The CIT (A) however, deleted the addition made by the Income-tax Officer and in doing so, followed decision of Gujarat High Court in the case of K.T.Doctor v. CIT, (1980) 124 ITR 501. The decision of CIT (A) was upheld by the Tribunal.

3. Though the respondent is duly served, no one appears on behalf of the respondent.

4. We have heard the learned counsel for the Revenue. The learned counsel for the Revenue states at the Bar that the controversy raised in the present Reference is concluded by the decision of this Court rendered in K.T.Doctor v. CIT (supra), which is affirmed by the Supreme Court in CIT v. K.T.Doctor, (1998) 230 ITR 744. Having regard to the principle laid down by this Court in K.T.Doctor (supra), which is affirmed by the Supreme Court, we are of the opinion that in law and on facts, the amount of Rs. 2,963/- being the income of Rasiklal Mohanlal Family Trust was not liable to be taxed in the hands of the assessee. The Reference is, therefore, answered in favour of the assessee and against the Revenue.

The Reference accordingly, stands disposed of, with no order as to costs.

(J.M.Panchal,J.)

(M.S.Shah, J.)

(patel)